

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

VARINDER SINGH
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Punjab & Haryana High Court at
Chandigarh

RSA No. 2850 of 2012 (O&M)

Date of decision : 16.7.2015

Tajinder Singh and another

.. Appellants

versus

Punjab State/ Government and others

.. Respondents

Coram: Hon'ble Mr. Justice Rajesh Bindal

Present: Mr. Balwinder Singh Sehra, Advocate, for the appellants.

Rajesh Bindal, J.

The plaintiffs are before this Court impugning the judgment and decree of the learned Lower Appellate Court whereby that of the trial Court was reversed and the suit for possession or in the alternate payment of compensation, was dismissed.

The appellants-plaintiffs filed suit for possession of land measuring 1 kanal 16 marlas 4 sarsahi after removal of *pacca* metalled road already laid thereon or in the alternate payment of compensation. The trial Court decreed the suit, however, the learned Lower Appellate Court reversed the judgment and decree of the trial Court while accepting the appeal filed by the respondents.

Learned counsel for the appellants submitted that it has been proved on record that the land on which the road had been laid is owned by the appellants. As the appellants have not been paid any compensation therefor, the appellants are entitled to get back the possession thereof or in the alternate payment of compensation. He further submitted that the issue on which the judgment and decree of the learned trial court has been reversed by the learned Appellate court was never pressed before the trial Court.

After hearing learned counsel for the appellants, I do not find any merit in the present appeal.

The suit was filed on 24.2.2001 with the pleadings that the respondents have constructed a road on the land in question in May, 2000. However, in the evidence, plaintiff Tajinder Singh, while appearing as PW3, himself stated that before 1976 when he came from abroad, the road was already existing. He further submitted that before filing of the suit, road was only repaired. It also came in his cross-examination that where the road was constructed, there was a passage even prior to 1951-52. The land was purchased by the father of the appellants in the year 1976. The aforesaid fact clearly established that when the father of the appellants purchased the near by land, the passage was already existing there on which the road had also been laid before 1976.

In view of the aforesaid facts on record, in my opinion, no illegality has been committed by the learned Lower Appellate Court in accepting the appeal filed by the respondents. No substantial question of law arises. The appeal is accordingly dismissed. Consequently, the accompanying applications are also dismissed.

16.7.2015
vs

(Rajesh Bindal)
Judge